

## Fact Sheet #43: Youth Employment Provisions of the Fair Labor Standards Act (FLSA) For Nonagricultural Occupations

This Fact Sheet provides general information about the Federal youth employment provisions applicable to non-agricultural occupations. Different standards apply to farm work.

The Department of Labor is committed to helping young workers find those positive and early employment experiences that can be so important to their development, but the work must be safe. The youth employment provisions of the FLSA were enacted to ensure that when young people work, the work does not jeopardize their health, well-being or educational opportunities. Employers are subject to the youth employment provisions under the same coverage criteria as established for the other provisions of the FLSA.

It is an unfortunate fact that children do get injured, even killed, in the workplace. The National Institute for Occupational Safety and Health estimates that over 210,000 American children suffer occupational injuries every year – and over 70,000 of these injuries are serious enough to warrant emergency room treatment.

Both Federal and State laws govern the employment of young workers and when both are applicable, the law with the stricter standard must be obeyed.

The Federal youth employment provisions **do not**:

- require minors to obtain "working papers" or "work permits," though many States do;
- restrict the number of hours or times of day that workers 16 years of age and older may be employed, though many States do;
- apply where no FLSA employment relationship exists;
- regulate or require such things as breaks, meal periods, or fringe benefits;
- regulate such issues as discrimination, harassment, verbal or physical abuse, or morality, though other Federal and State laws may.

### **Minimum Age Standards For Employment**

The FLSA and the youth employment regulations issued at 29 CFR, Part 570, establish both hours and occupational standards for youth. Children of any age are generally permitted to work for businesses entirely owned by their parents, except those under 16 may not be employed in mining or manufacturing and no one under 18 may be employed in any occupation the Secretary of Labor has declared to be hazardous.

- 18** Once a youth reaches 18 years of age, he or she is no longer subject to the Federal youth employment provisions.
- 16** Basic minimum age for employment. Sixteen- and 17-year-olds may be employed for unlimited hours in any occupation other than those declared hazardous by the Secretary of Labor.
- 14** Young persons 14 and 15 years of age may be employed outside school hours in a variety of non-manufacturing and non-hazardous jobs for limited periods of time and under specified conditions.

**Under** Children under 14 years of age may not be employed in non-agricultural

- 14** occupations covered by the FLSA. Permissible employment for such children is limited to work that is exempt from the FLSA (such as delivering newspapers to the consumer and acting). Children may also perform work not covered by the FLSA such as completing minor chores around private homes or casual baby-sitting.

## **OCCUPATIONS BANNED FOR ALL MINORS UNDER THE AGE OF 18**

### **The Hazardous Occupations Orders (HOs)**

The FLSA establishes an 18-year minimum age for those nonagricultural occupations that the Secretary of Labor finds and declares to be particularly hazardous for 16- and 17-year-old minors, or detrimental to their health or well-being. In addition, Child Labor Regulation No. 3 also bans 14- and 15-year-olds from performing any work proscribed by the HOs. There are currently seventeen HOs which include a partial or total ban on the occupations or industries they cover.

**HO 1. Manufacturing or storing explosives** - bans minors working where explosives are manufactured or stored, but permits work in retail stores selling ammunition, gun shops, trap and skeet ranges, and police stations.

**HO 2. Driving a motor vehicle or work as an outside helper on motor vehicles** - bans operating motor vehicles on public roads and working as outside helpers on motor vehicles, except 17-year-olds may drive cars or small trucks during daylight hours for limited times and under strictly limited circumstances (see Fact Sheet #34 in this series for information about on the job driving).

**HO 3. Coal mining** - bans most jobs in coal mining.

**HO 4. Logging and sawmilling** - bans most jobs in logging and timbering (including cutting firewood) and in sawmills.

**HO 5. Power-driven woodworking machines** - bans the operation of most power-driven woodworking machines, including chain saws, nailing machines, and sanders.\*

**HO 6. Exposure to radioactive substances and ionizing radiation** - bans exposure to radioactive materials.

**HO 7. Power-driven hoisting apparatus** - bans the operation of most power-driven hoisting apparatus such as forklifts, non-automatic elevators, bobcats and cranes, including most high lift trucks, but does **not** apply to chair-lifts at ski resorts **nor** to electric and pneumatic lifts used to raise cars in garages and gasoline service stations.

**HO 8. Power-driven metal-forming, punching and shearing machines** - bans the operation of certain power-driven metal-working machines but permits the use of most machine tools.\*

**HO 9. Mining, other than coal** - bans most jobs in mining at metal mines, quarries, aggregate mines, and other mining sites including underground work in mines, work in or about open cut mines, open quarries, and sand and gravel operations.

**HO 10. Power-driven meat-processing machines, slaughtering and meat packing plants** - bans the operation of power-driven meat processing machines, such as meat slicers, saws and meat choppers, wherever used (including restaurants and delicatessens). This ban includes the use of this machinery on items other than meat, such as cheese and vegetables. HO 10 also bans most jobs in slaughtering and meatpacking establishments.\*

**HO 11. Power-driven bakery machines** - bans the operation of power-driven bakery machines such as vertical dough and batter mixers (including most countertop models), dough rollers and dough sheeters. This ban covers such machinery wherever used.

**HO 12. Power-driven paper-products machines** - bans the operation of power-driven paper products machines such as scrap paper balers, paper box compactors, and platen-type printing presses. Sixteen- and 17-year-olds may load, but not operate or unload, certain scrap paper balers and paper box compactors under very specific guidelines (see Fact Sheet #57 for information about the rules concerning the loading of power-driven balers and compactors).\*

**HO 13. Manufacturing of brick, tile and related products** - bans most jobs in the manufacture of brick, tile and similar products.

**HO 14. Power-driven circular saws, band saws and guillotine shears** - bans the operation of various types of power-driven band and circular saws and guillotine shears, no matter what kind of items are being cut by the saws and shears.\*

**HO 15. Wrecking, demolition, and ship-breaking operations** - bans most jobs in wrecking, demolition, and ship-breaking operations, but does not apply to remodeling or repair work which is not extensive.

**HO 16. Roofing operations** - bans most jobs in roofing operations, including work performed on the ground and removal of the old roof, and all work on or about a roof.\*

**HO 17. Trenching and excavation operations** - bans most jobs in trenching and excavation work, including working in a trench more than four feet deep.\*

\* The regulations provide a limited exemption from HOs 5, 8, 10, 12, 14, 16 and 17 for apprentices and student-learners who are at least 16 years of age and enrolled in approved programs.

The term "*operation*" as used in HOs 5, 8, 10, 11, 12 and 14 generally includes the tasks of setting up, adjusting, repairing, oiling or cleaning the equipment.

### **HOURS OF WORK AND PERMITTED OCCUPATIONS FOR 14- AND 15-YEAR-OLDS IN NONAGRICULTURAL EMPLOYMENT**

The Federal youth employment provisions limit the times of day, number of hours, and industries and occupations in which 14- and 15-year-olds may be employed.

#### **Hours Standards for 14- and 15-Year-Olds**

Child Labor Regulation No. 3, 29 CFR Part 570, Subpart C, (CL Reg 3), limits the hours and the times of day that 14- and 15-year-olds may work to:

- outside school hours;
- no more than 3 hours on a school day , including Fridays;
- no more than 8 hours on a nonschool day;
- no more than 18 hours during a week when school is in session;
- no more than 40 hours during a week when school is not in session;
- between 7 a.m. and 7 p.m. – except between June 1 and Labor day when the evening hour is extended to 9 p.m.

Fourteen- and 15-year-olds may work in most office jobs and retail and food service establishments, but may **not** work in processing, mining, or in any workroom or workplace where goods are manufactured or processed.

Such youth also are prohibited from working in any of the Hazardous Orders or in occupations involving transportation, construction, warehousing, communications and public utilities.

Fourteen- and 15-year-olds may not operate most power-driven machinery, including lawn mowers, lawn trimmers and weed cutters. Such youth may operate most office machines and certain equipment found in food service establishments such as dishwashers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, and coffee grinders.

They may be employed in occupations such as bagging groceries, office work, stocking shelves, cashiering, and cook with electric and gas grills that do not involve open

flames and deep-fat fryers that are equipped with and utilize devices that automatically raise and lower the baskets into and out of the oil or grease. Fourteen- and 15-year-olds may not bake as part of their employment.

*The Department of Labor revised the rules regarding cooking by youths under 16 years of age effective February 14, 2004. Please see Fact Sheet # 58 (Cooking and Baking under the Federal Youth Employment Provisions of the FLSA) in this series for more information.*

### **Special Provisions Permitting the Employment of Certain Minors in Places of Business that Use Machinery to Process Wood Products**

Section 13(c)(7) of the FLSA permits the employment of certain minors between the ages of 14 and 18, inside and outside of places of businesses where machinery is used to process wood products. This exemption applies only to a minor who is:

1. exempt from compulsory school attendance beyond the eighth grade either by statute or judicial order, **and**,
2. is supervised in the work place by an adult relative or adult member of the same religious sect or division as the minor.

Although a minor meeting these requirements may be employed inside and outside of places of businesses that use machinery to process wood products – activities normally prohibited by Child Labor Regulation No. 3 and HO 4 – the minor is still prohibited from operating, or assisting to operate, any power-driven woodworking machines. This prohibition includes the starting and stopping of the machines and the feeding of materials into the machines as well as the off-bearing of materials from the machines. Such minors are also prohibited from cleaning, oiling, setting-up, adjusting and maintaining the machines. In addition, such minors must be protected from wood particles or other flying debris within the workplace by a barrier appropriate to the potential hazard of such wood particles or flying debris or by maintaining a sufficient distance from machinery in operation. The minor is also required to use personal protective equipment to prevent exposure to excessive levels of noise and sawdust. See Fact Sheet No. 55 in this series for more information about this exemption.

### **Work Experience and Career Exploration Program (WECEP)**

This program is designed to provide a carefully planned work experience and career exploration program for 14- and 15-year-old youths who can benefit from a career oriented educational program designed to meet the participants' needs, interests and abilities. The program is aimed at helping youths to become reoriented and motivated toward education and to prepare them for the world of work.

State Departments of Education are granted approval to operate a WECEP by the Administrator of the Wage and Hour Division for a 2-year period. Certain provisions of CL Reg. 3 are modified for 14- and 15-year-old participants during the school term.

They may work during school hours.

They may work up to 3 hours on a school day; and as many as 23 hours in a school week.

They also may work in some occupations that would otherwise be prohibited under a variance issued by the Administrator, but they may not work in manufacturing, mining or any of the 17 Hazardous Occupations.

### **Enforcement and Penalties**

Investigators of the Wage and Hour Division who are stationed across the U.S. enforce the youth employment provisions of the FLSA. As the Secretary of Labor's authorized representatives, they have the authority to conduct investigations and gather data on wages, hours, and other employment conditions or practices, in order to determine compliance with all the provisions of the FLSA.

Violators of the youth employment provisions may be subject to a civil money penalty of up to **\$11,000** for each minor employed in violation. The FLSA prohibits the shipment in interstate commerce of goods that were produced in violation of the Act's minimum wage, overtime, or youth employment provisions. The FLSA authorizes the Department of Labor to obtain injunctions to prohibit the movement of such "**hot goods.**" The FLSA also authorizes the Department to obtain injunctions against violators of the youth employment provisions to compel their compliance with the law. Further violations could result in sanctions against such persons for contempt of court. Willful youth employment violators may face criminal prosecution and be fined up to **\$10,000**. Under current law, a second conviction may result in imprisonment.

**This fact sheet is intended as general information only and does not carry the force of legal opinion.**

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### **How can I get more information on these laws?**

For more information about these youth employment provisions or those applicable to employment in agriculture, call your local Wage and Hour Division Office. These offices can be found in the blue pages of your telephone directory or you can call 1-866-4US-WAGE (1-866-487-9243). You may also visit us at our *YouthRules!* Website located at: <http://www.youthrules.dol.gov>

For more information about other laws enforced by the Wage and Hour Division, visit our home page at: <http://www.wagehour.dol.gov>